



Breaking the Bank: Robin Hood and Chapter 313

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Key Points

- Chapter 313 tax abatements incentivize school districts to provide tax abatements to every business that applies because they can pass the cost on to taxpayers across the state.
- Chapter 313 and Chapter 41, otherwise known as Robin Hood, jointly create a situation whereby relatively prosperous districts can raise revenues to fund their own operations more efficiently by granting tax abatements to businesses rather than by collecting taxes.
- Chapter 313 has played a major role in transforming the funding of Texas' K-12 public schools into an extremely complicated and counterproductive game of "beggar thy neighbor."

State Elected Officials Ought to Decide How State Taxpayers' Money Is Allocated

Public school officials in districts benefiting from Chapter 313 windfalls have naturally found it difficult to understand how anyone could see anything objectionable in the gains they have reaped thanks to their good fortune and negotiating skills. The harsh reality is that these deals are deeply problematic for several reasons, regardless of what kind of business is receiving the property tax abatement.

One problem is the ample historic evidence showing little or no long-term educational benefit resulting from huge influxes of extra cash into school districts when the increased funding is unaccompanied by meaningful changes in how students are instructed or how teachers are recruited and rewarded for their work. A still-unfolding and well-publicized case-in-point is the fate of Facebook cofounder, Chairman and CEO Mark Zuckerberg's \$100 million gift to the troubled public schools of Newark, New Jersey, which he first announced on the *Oprah Winfrey Show* in September 2010.

This January, attorney, public relations executive, and dogged teacher-union critic Richard Berman provided a disturbing rundown of how Newark schools are faring years after they received \$100 million from Mr. Zuckerberg and an additional \$100 million from other business leaders who matched his gift. Mr. Berman pointed to new research showing that "nearly one-quarter of teachers [in the district] miss at least one out of every 10 work days, one of the worst absentee rates in the nation." Mr. Berman also noted that, less than seven years after accepting what was hailed as a "transformative" \$200 million gift with few strings attached, Newark schools are "again facing a \$30 million deficit, driven by excessive union contracts and tens of millions of dollars being wasted annually on 'rubber rooms,' where excess and poor-performing teachers languish without assignments because they can't be fired" ([Berman](#)).

The dismal academic outcomes in Newark confirm that the \$200 million Zuckerberg and other business benefactors put into the city's public schools was wasted ([Jackson](#)):

Only one-third of Newark students are proficient in English. Only one-quarter are proficient in [math]. In state tests of third- to eighth-graders, math and English proficiency actually went down in all six grades between 2011 and 2014 following Mr. Zuckerberg's . . . gift ([Berman](#)).

But the fact that many school districts have taken advantage of Chapter 313 to expand their funding—sometimes dramatically, without having to persuade ordinary taxpayers of the appropriateness of doing so and without having a credible plan to use the money to improve school performance—isn't the fundamental problem. Even when the sole effect of the school property tax

abatement is to transfer part of the burden of paying for K-12 education from the locality to the state level and the district does not extract any additional funding from the business that benefits from the abatement, accountability in government is undermined ([Michels](#)).

In Texas, sales and other taxes collected at the state level pay for health and human services, higher education, and a host of other public services in addition to helping cover, along with local school districts and the federal government, the cost of public K-12 education. The state should determine how these funds are allocated to school districts, rather than have the allocation be driven by local officials offering tax breaks through the 313 process.

Legislators might determine there are legitimate reasons to spend less on health and human services or higher education in order to increase the amount of money sent to certain local school districts so they can keep funding for their operations at the same level even as they reduce local property taxes for a business or businesses in their jurisdiction. But under Chapter 313, this decision is taken out of the hands of lawmakers who are accountable to state taxpayers.

Nothing in the law prevents prosperous school districts with ample property tax bases from using it to reduce the share of their operating costs that is paid for by homeowners and businesses in their communities and increase the share that is paid by Texans across the state. In fact, as a consequence of the perverse interplay between Chapter 313 and another state law known as Texas Education Code Chapter 41, or, more colloquially, “Robin Hood,” relatively prosperous districts can actually raise revenues to fund their own operations more efficiently by *granting tax abatements* to businesses rather than by collecting taxes from businesses and other property owners.

Chapter 313 Subsidies Especially Lucrative For “Property-Wealthy” School Districts

A quarter century ago, after pushing unsuccessfully for a statewide property tax that would have, to a large extent, equalized per-pupil funding in otherwise vastly different school districts throughout Texas, progressive-minded reformers successfully fought for passage of Chapter 41.

This law initially required 34 school districts identified as property wealthy to return a portion of the revenue they generate through property taxes to the state, which then redistributed that money to poorer districts across the state. As Terri Gruca of KVUE-TV (ABC) in Austin reported last fall, Robin Hood has metastasized since then. During the 2017-18 school year, nearly 300 districts, or roughly a quarter of all school districts in Texas, were labeled as

property wealthy and consequently required to send money to Austin that went into the state education budget ([Gruca](#)).

According to Gruca, Austin’s school district alone is making nearly half a billion dollars in so-called “recapture payments” per academic year. Altogether, such payments to the state from property wealthy districts contributed \$2 billion to school funding in 2017-18. That’s 11 percent of all state school funding ([Gruca](#)).

Today, in large districts like Austin and Houston and small but property-rich ones like Round Rock Independent School District (RRISD) in Central Texas, there is bipartisan outrage about Chapter 41. Randy Staats, RRISD’s chief financial officer, explained to Gruca why school officials and teachers and parents and other taxpayers are upset:

We just adopted our fourth deficit budget in the last six years. The deficit this year is \$14.8 million. To start with this year we’re generating additional tax collections of almost \$29 million based on our projections and we’re only able to keep \$1 million of that. . . .

It makes our budgets very challenging. Competitive salaries and benefits are difficult to keep up with sometimes and as other school districts provide salary and benefit increases for their staff members, we’ve got to do the same or we risk kind of falling behind ([Gruca](#)).

Many state lawmakers representing jurisdictions with property-wealthy school districts would love to repeal Chapter 41 or scale it back significantly.

Unfortunately for them, neither of these objectives appears to be politically feasible in Austin. But Chapter 41 does not apply to supplemental payments to schools procured under Chapter 313 deals. According to proponents in property-wealthy districts like taxpayer activist Gary Snyder of Port Royal, their local school officials must be crazy if they won’t play along. In a July 2017 letter to the editor of a local newspaper decrying several school board members for having turned down a controversial Chapter 313 deal, Snyder explained:

Chapter 313 is a state economic development tool that allows school districts to keep millions of local tax dollars rather than sending the money to Austin through the Robin Hood requirement.

If the agreement is put into place and the project moves forward, the district would keep approximately \$1 million in additional property tax revenue a year during most of the 16 years the agreement is in place. . . .

If a Chapter 313 agreement . . . is still an option, it would be a great solution to the school district’s budget shortfall. We can keep more tax dollars here, locally, to

improve our children's education, give teachers and staff well-deserved pay increases, and maintain and improve school facilities ([Snyder](#)).

Purely from the perspective of a self-interested resident of a property-wealthy community, Snyder's argument may be compelling. But when regarded from the perspective of what is best for all the people of Texas, it underscores the problems of Chapter 313.

Regardless of what one thinks of the merits of the Robin Hood requirement (and there are certainly strong objections to it that fall outside the scope of this paper), it makes no sense at all to enable school districts that are subject to it to avoid sending funds to Austin by granting multi-year property tax abatements to businesses for which the districts are reimbursed by the state.

In short, Chapter 313 has played a major role in transforming the funding of Texas' K-12 public schools into an extremely complicated and counterproductive

game of "beggar thy neighbor." This is only one of several detrimental consequences of the law.



Editor's Note: *This is the second in a series of research papers examining the problems with Chapter 312 and Chapter 313 local tax abatements. The papers will examine both the overall problems with the abatements as well as their use for renewable energy projects. This research is timely because Chapter 312 will expire in 2019, and Chapter 313 will expire in 2022. If not renewed by the Legislature in 2019, Chapter 312 and the ability of local governments to offer tax abatements will go away. Likewise, if not renewed by the Legislature in 2021, Chapter 313 and the ability of school districts to offer tax abatements will go away. The next two legislative sessions will provide Texans and their elected state officials the opportunity to examine whether these programs deliver the jobs and economic development they promise.* 

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